

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANDREW R. PERRONG
1657 THE FAIRWAY #131
JENKINTOWN, PA 19046

Plaintiff

v.

DELANEY CONSTRUCTION PAVING
D/B/A “GO DIRECT PAVING” AND
D/B/A “DIRECT PAVING AND CONCRETE”
857 CALLOWHILL RD
PERKASIE, PA 18944,

AND

JOHN DELANEY
857 CALLOWHILL RD
PERKASIE, PA 18944

Defendants.

Case No.

JURY TRIAL DEMANDED

Preliminary Statement

1. Plaintiff Andrew R. Perrong (“Plaintiff”), brings this action under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, a federal statute enacted in response to widespread public outrage about the proliferation of intrusive, nuisance calling practices. *See Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 745 (2012).

2. Plaintiff alleges that Delaney Construction Paving, which does business under the unregistered fictitious names “Go Direct Paving” and “Direct Paving and Concrete,” and its owner, John Delaney, commissioned a series of automated illegal, prerecorded telemarketing “robocalls” to originate new customers. These calls were made to solicit business for his paving and asphalt company and were sent to telephone numbers listed on the National Do Not

Call Registry and for which the called party is charged for the calls, like Mr. Perrong's number, which is prohibited by the TCPA. The calls were made either directly by Delaney, or his agents, for his company Delaney Construction Paving.

3. The Plaintiff never consented to receive such calls, which were placed to him for telemarketing purposes.

Parties

4. Plaintiff Andrew R. Perrong is a Pennsylvania resident, and a resident of this District.

5. Defendant Delaney Construction Paving has its principal place of business at 857 Callowhill Rd., Perkasie, PA 18944, which lies within this District.

6. Defendant John Delaney is domiciled and resides at 857 Callowhill Rd., Perkasie, PA 18944, which lies within this District.

Jurisdiction & Venue

7. The Court has federal question subject matter jurisdiction over these TCPA claims. *Mims v. Arrow Fin. Services, LLC*, 132 S. Ct. 740 (2012).

8. Venue is proper under 28 U.S.C. § 1391(b)(1) because the Defendants are residents of this District.

The Telephone Consumer Protection Act

9. In 1991, Congress enacted the TCPA to regulate the explosive growth of the automated calling industry. In so doing, Congress recognized that “[u]nrestricted telemarketing . . . can be an intrusive invasion of privacy [.]” Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, § 2(5) (1991) (codified at 47 U.S.C. § 227).

The TCPA Prohibits all Automated Calls To Protected Numbers

10. The TCPA makes it unlawful “to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice . . . to any telephone number assigned to a . . . paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call.” *See* 47 U.S.C. § 227(b)(1)(A)(iii).

11. Congress singled out these services for special protection either because Congress realized their special importance in terms of consumer privacy and therefore protected them (as in the case of cellular phones), or because the numbers are assigned to services, like Mr. Perrong’s VoIP service, for which the called party is charged, thus shifting the cost of automated or prerecorded telephone calls onto consumers. *See Barr v. Am. Ass’n of Pol. Consultants, Inc*, 140 S. Ct. 2335, 2363, (2020) (Gorsuch, J. & Thomas, J., concurring in part and dissenting in part).

12. According to findings by the Federal Communication Commission (“FCC”), the agency Congress vested with authority to issue regulations implementing the TCPA, such calls are prohibited because, as Congress found, automated or prerecorded telephone calls are a greater nuisance and invasion of privacy than live calls, and such calls can be costly and inconvenient.

13. The TCPA provides a private cause of action to persons who receive calls in violation of 47 U.S.C. § 227(b)(1)(A). *See* 47 U.S.C. § 227(b)(3).

14. This cause of action applies to users of any one of the four protected services (pager, cellular, specialized mobile radio [i.e. radiotelephony locator beacons or dispatch

systems], or another radio common carrier service [i.e. ship-to-shore or air-to-ground]), or any service, including residential, VoIP, and landline services, for which the called party is charged for the call. *See Perrong v. Victory Phones LLC*, No. CV 20-5317, 2021 WL 3007258, at *6 (E.D. Pa. July 15, 2021).

15. “Non-emergency prerecorded voice or autodialed calls to [the destinations enumerated in 47 U.S.C. § 227(b)(1)(A)] are permissible only with the prior express consent of the called party.” This includes *any* non-consensual calls made for non-emergency purposes, regardless of *whether or not* they are informational, telemarketing, telephone solicitations, or similar such calls. *See* FCC Enforcement Advisory: *Tel. Consumer Prot. Act Robocall & Text Rules - Biennial Reminder for Pol. Campaigns About Robocall & Text Abuse*, 31 FCC Rcd. 1940, 1941 n.6 (2016) [hereinafter FCC Advisory].

16. Importantly, this Court has already held that non-consensual, non-emergency calls placed using an ATDS or a prerecorded voice to the *same telephone number at issue in this case* violate 47 U.S.C. § 227(b)(1)(A), regardless of the purpose of the call. *Victory Phones*, 2021 WL 3007258, at *6 (rejecting claim that non-commercial survey calls were exempt and holding that “[T]he operative language of the TCPA is unambiguous. Section 227(b)(1)(A) prohibits placing artificial and pre-recorded voice calls to a variety of telephone numbers.”). To hold otherwise would read the words “any person” and “any call” out of the statute. *See id.*

The National Do Not Call Registry

17. The National Do Not Call Registry allows consumers to register their telephone numbers and thereby indicate their desire not to receive telephone solicitations at those numbers. *See* 47 C.F.R. § 64.1200(c)(2).

18. A listing on the Registry “must be honored indefinitely, or until the registration is cancelled by the consumer or the telephone number is removed by the database administrator.”

Id.

19. The TCPA and implementing regulations prohibit the initiation of telephone solicitations to residential telephone subscribers whose numbers are on the Registry and provides a private right of action against any entity that makes those calls, or “on whose behalf” such calls are promoted. 47 U.S.C. § 227(c)(5); 47 C.F.R. § 64.1200(c)(2).

Liability Under The TCPA

20. Defendant John Delaney is the owner and operators of Delaney Construction Paving, and is therefore responsible for any conduct purportedly carried out only in such name.

21. Under the TCPA, an individual such as Delaney may be personally liable for the acts alleged in this Complaint pursuant to 47 U.S.C. § 217 of the TCPA, which reads, *inter alia*:

[T]he act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or user, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or user *as well as of that person*.

47 U.S.C. § 217 (emphasis added).

22. Delaney personally participated in the actions complained of by: (a) personally selecting the phone numbers that would be called; (b) approving and actually physically voicing the scripting that would be used on the calls; (c) selecting the dialing equipment or supplier of the same used to make the calls; and (d) personally paying for the calls.

Factual Allegations

23. Defendant Delaney Construction Paving is a company that provides, *inter alia*, paving services throughout the Philadelphia metropolitan area.

24. Delany Construction Paving does business under the unregistered fictitious names “Go Direct Paving” and “Direct Paving and Concrete.”

25. Delaney Construction Paving is owned and operated by John Delaney.

26. John Delaney physically voiced the calls Plaintiff received.

27. Defendants use telemarketing to solicit customers for their paving services, as they did with the Plaintiff.

28. Defendants are not registered as telemarketers with the Attorney General of Pennsylvania.

29. One of the strategies used by Defendants involves the use of automated calls.

30. Defendants send out these call blasts *en masse* to telephone numbers throughout the area, hoping they reach someone interested in their paving services.

The Calls to Mr. Perrong

31. Plaintiff Perrong is a “person” as defined by 47 U.S.C. § 153(39).

32. Plaintiff listed his residential telephone number (the “Number”), 215-947-XXXX, on the National Do Not Call Registry on May 23, 2005, and the number has been on the Registry continuously since that time.

33. The Number is used as a residential line and for residential purposes.

34. The Number is not associated with a business.

35. Despite this, the Defendants placed at least two telemarketing calls to the Number on August 12 and August 13, 2022.

36. The Number is assigned to a Voice over Internet Protocol (VoIP) telephone service, which allows for voice calls to be placed over a broadband Internet connection.

37. That Number, which is assigned to a VoIP telephone service, is charged for each call it receives.

38. The VoIP telephone service for the Number is Anveo.

39. The service charges a ring charge of \$0.005 for the provision of Caller ID Name lookup information for each call placed to the Number, even if the call is not answered.

40. The service also charges a per-minute charge of \$0.004 per minute for voice charges for each minute of talk time, including voicemail time, for each call placed to the Number.

41. The Number is therefore “assigned to a . . . service for which the called party is charged for the call” and any calls placed to that number are subject to the restrictions enumerated in 47 U.S.C. § 227(b)(1)(A)(iii), including the prohibition against calling such numbers for non-emergency purposes without consent using a prerecorded message or an ATDS.

42. The restriction against using an ATDS or prerecorded message to call a number for which the called party is charged applies to *any non-emergency, non-consensual call*, regardless of its purpose, regardless of whether or not they are telephone solicitations (as in survey or political calls), and regardless of whether the individual called in on any do-not-call registry. *See Victory Phones*, 2021 WL 3007258, at *6. This is clearly indicated by the fact that the TCPA prohibits “any person” from initiating “any call” using an ATDS. *See id.*

43. On August 12, 2022 at 4:30 PM, the Plaintiff received a call from the Defendants with the caller ID 610-714-1439.

44. Plaintiff did not answer the call and the call went to voicemail.

45. As soon as the call went to voicemail, the following pre-recorded message played: Hello, my name is John. We are doing new asphalt paving driveways in your neighborhood. If you would like to get a free estimate, please push one now to be connected, or give

me a call at 267-342-7366, or push one now to be connected for a free estimate on a new asphalt paving driveway. Please push one now to be connected. Thank you.

46. Despite doing nothing, Plaintiff received another call on August 13, 2022 at 1:47 PM from the caller ID 215-500-1448.

47. The Plaintiff answered this call, and the following message played, with the same voice as the August 12, 2022 call:

Hello, my name is John. We are doing new asphalt paving driveways. We are giving free estimates on new asphalt driveways and home improvements. If you'd like to get connected, please push one now to be connected to an operator. Again, we're giving free estimates on new asphalt driveways and giving 15% to seniors [sic] citizens and military. Again, you can call me at 215-500-1448 or push one now to be automatically connected. Again, we're giving free estimates for home improvements and driveways, asphalt and concrete and masonry. Push one now to be connected.

48. Searching the 610-714-1439 telephone number on Google reveals it is listed on a website called “Go Direct Paving.” *See* GO DIRECT PAVING, <https://www.godirectpaving.com/>, [<https://archive.ph/i0Z94>].

49. Similarly, searching the 215-500-1448 number reveals an entry with NoMoRobo, who won the FTC’s competition for tracking robocalls, as a reported “Home Improvement Robocall” making the “top robocalls”. The variant of the call on the NoMoRobo website lists the caller ID as 215-500-1448 and the voice gives the 267-342-7366 number as the callback number, just as on the first call. *See* <https://www.nomorobo.com/lookup/215-500-1448> [<https://archive.ph/Z4QGR>].

50. Searching the 267-342-7366 telephone number on Google reveals it is listed on a website called “Direct Paving and Concrete.” The “Direct Paving and Concrete” website has the same listed email address, directpaving@yahoo.com, as the “Go Direct Paving” website. *See*

DIRECT PAVING AND CONCRETE, <https://directpavingandconcrete.com/> [<https://archive.ph/xeVVQ>].

51. A listing on the website Proven Expert, a home improvement contractor review site, lists “John Delaney” as the owner of “Go Direct Paving.” *Go Direct Paving - Asphalt Masonry Concrete PA, PROVEN EXPERT*, <https://www.provenexpert.com/en-us/go-direct-paving-asphalt-masonry-concrete-pa/> [<https://archive.ph/avOlE>].

52. The fictitious “Go Direct Paving,” “Direct Paving and Concrete,” and Delaney Construction Paving are all one and the same entity.

53. Indeed, a photograph on Go Direct Paving’s Facebook profile depicts a pickup truck with the Delaney Construction Paving logo emblazoned on its side:



Compare Go Direct Paving, FACEBOOK (July 19, 2022, 11:01 AM),

<https://www.facebook.com/photo/?fbid=113028858144018> [<https://archive.ph/h3h0O>], with DELANEY CONSTRUCTION PAVING, <https://www.delaneyconstructionandpaving.com/> [<https://archive.ph/plU5F>].

Defendants' Use of an ATDS

54. In addition to using a prerecorded voice, the calls were conducted using an Automatic Telephone Dialing System (ATDS). As the Supreme Court recently clarified, the key feature of an ATDS is the capacity to store numbers to be called using a random or sequential number generator or to produce numbers to be called using a random or sequential number generator. *Facebook, Inc. v. Duguid*, 141 S. Ct. 1163, 1167 (2021).

55. The Third Circuit recently clarified that “Congress envisioned a broad understanding of ‘equipment’” that constitutes an ATDS. It also clarified that the analysis of whether an ATDS was used in violation of the TCPA centers around “whether the defendant employ[s] [ATDS] capacities to make automated calls,” *Panzarella v. Navient Sols., Inc.*, 37 F.4th 867, 873, 878 (3d Cir. 2022). In so doing, it held that Congress intended to “ban all autodialed calls” because Congress “found autodialer technology to be uniquely harmful.” *Id.* at 879 (cleaned up).

56. In enacting the ATDS prohibition, the Third Circuit cited favorably to Congressional understanding “that telemarketers could transform ordinary computers into autodialers through minor and inexpensive modifications,” including by “relying on computerized databases containing telephone numbers during their dialing campaigns.” *Id.* at 880 (cleaned up). The Third Circuit held that, in passing the TCPA’s ATDS prohibition, Congress intended to remedy the problems caused by callers using computer software to dial numbers randomly or sequentially from a list or database. *See id.*

57. The system(s) Defendants used to place the calls to Plaintiff is/are an ATDS because it would be illogical to dial a number manually, have the Plaintiff answer it, and only then play the Plaintiff a prerecorded message.

58. As this Court has remarked, other courts have held, post-*Facebook*, that allegations similar to those as here of the absence of a relationship between the parties, and the random nature of the automation device, are all indicia of use of a random or sequential dialing device that gives rise to the inference at the pleadings stage that an ATDS was used to make the calls. *See Camunas v. Nat'l Republican Senatorial Comm.*, No. 21-1005, 2021 U.S. Dist. LEXIS 100125 at *11 (E.D. Pa. May 26, 2021).

59. No facts exist here to support the conclusion that Defendants were calling from a curated list of their past customers, particularly as Plaintiff has never done business with Defendants. By contrast to a company that dials calls *en masse* to multiple individuals from a list of telephone numbers (as here), a company that calls its existing customers utilizing an imported customer list does not place calls using an ATDS because such calling uses a database targeting existing customers' information rather than computer-generated tables or lists of individuals to be called. *See Panzarella*, 37 F.4th at 881–882.

60. Plaintiff is ignorant of the exact process by which the system(s) used by the Defendants operate other than drawing the reasonable inference and making the allegation that it stores or produces telephone numbers randomly or possibly sequentially based on the facts ascertainable from the calls he received, as outlined above. Indeed, as at least one district court explained, “The newly clarified definition of an ATDS is more relevant to a summary judgment motion than at the pleading stage.” *Gross v. GG Homes, Inc.*, No. 3:21-cv-00271-DMS-BGS, 2021 WL 2863623, at *7 (S.D. Cal. July 8, 2021); *accord Miles v. Medicredit, Inc.*, No. 4:20-cv-01186-JAR, 2021 WL 2949565 (E.D. Mo. July 14, 2021).

Defendants' Conduct Violates the TCPA

61. The communications received by Plaintiff demonstrate that they were sent for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services

as they sought to have him purchase, Defendants' asphalt and paving services. The calls therefore qualified as telemarketing. 47 C.F.R. § 64.1200(f)(12).

62. Defendant John Delaney made the automated calls. He voiced the calls. He also either physically programmed the automatic dialer to dial them or instructed others to do the same.

63. The Plaintiff never provided his consent or requested these calls.

64. The Plaintiff never did any business with the Defendants.

65. Defendants called multiple times, despite Plaintiff's number being on the National Do Not Call Registry.

66. Based on this fact, it is evident that Defendants do not maintain Do Not Call policies and procedures as required by law, nor do they maintain an internal Do Not Call list.

67. Plaintiff was harmed by these calls. He was temporarily deprived of legitimate use of his phone because his phone line was tied up during the automated calls and his privacy was improperly invaded. The Plaintiff was charged for the calls. Moreover, these calls injured Plaintiff because they were frustrating, obnoxious, annoying, were a nuisance and disturbed the solitude of Plaintiff.

**Legal Claims
Count One:**

**Violation of the TCPA's Prohibition Against Automated Calling
Via Pre-Recorded Message**

68. Plaintiff incorporates the allegations from all previous paragraphs as if fully set forth herein.

69. The foregoing acts and omissions of Defendants and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf constitute numerous and multiple

violations of the TCPA, 47 U.S.C. § 227, by sending calls, except for emergency purposes, to the telephone number of Plaintiff using a prerecorded voice.

70. As a result of Defendants' and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf's violations of the TCPA, 47 U.S.C. § 227, Plaintiff is entitled to an award of \$500 in damages for each and every call made to his telephone number for which he is charged for the call using an artificial or prerecorded voice in violation of the statute, pursuant to 47 U.S.C. § 227(b)(3)(B).

71. Plaintiff is also entitled to and does seek injunctive relief prohibiting Defendants and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf from violating the TCPA, 47 U.S.C. § 227, by making calls or sending messages, except for emergency purposes, to any number using an artificial or prerecorded voice in the future.

72. The Defendants' violations were willful and/or knowing.

Count Two:
**Violation of the TCPA's Prohibition Against Automated Calling
With an Automatic Telephone Dialing System (ATDS)**

73. Plaintiff incorporates the allegations from all previous paragraphs as if fully set forth herein.

74. The foregoing acts and omissions of Defendants and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf constitute numerous and multiple violations of the TCPA, 47 U.S.C. § 227, by making calls, except for emergency purposes, to the telephone number(s) of Plaintiff using an ATDS.

75. As a result of Defendants' and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf's violations of the TCPA, 47 U.S.C. § 227, Plaintiff is

entitled to an award of \$500 in damages for each and every call made to his telephone number for which he is charged for the call using an ATDS in violation of the statute, pursuant to 47 U.S.C. § 227(b)(3)(B).

76. Plaintiff is also entitled to and does seek injunctive relief prohibiting Defendants and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf from violating the TCPA, 47 U.S.C. § 227, by making calls, except for emergency purposes, to any number using an artificial or prerecorded voice in the future.

77. The Defendants' violations were wilful and/or knowing.

**Count Three:
Violation of the Pennsylvania Telemarketer Registration Act**

73 Pa. Cons. Stat. § 2241

78. By placing at least two telemarketing calls to the Plaintiff without registering as telemarketers under Pennsylvania law, Defendants, jointly and severally, violated 73 Pa. Cons. Stat. § 2243. Moreover, by failing to identify themselves in the messages, Defendants, jointly and severally, violated 73 Pa. Cons. Stat. § 2245.1.

79. This constitutes two violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law. 73 Pa. Cons. Stat. § 2246(a).

80. The foregoing acts and omissions of Defendants and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf constitute numerous and multiple violations of the Pennsylvania Telemarketer Registration Act (PTRA), 73 Pa. Cons. Stat. § 2241, including by making calls to Plaintiff's number, on the Pennsylvania Do-Not-Call registry, without registration.

81. As a result of Defendants' and/or their affiliates, agents, and/or other persons or entities acting on their behalf's violations of the PTRA, 73 Pa. Cons. Stat. § 2241, Plaintiff is entitled to an award of \$300 in damages for each and every call made to his telephone number in violation of the statute, pursuant to the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 Pa. Cons. Stat. § 201. *See* 73 Pa. Cons. Stat. § 2246(a).

82. Plaintiff is also entitled to and does seek injunctive relief prohibiting Defendants and/or their affiliates, agents, and/or other persons or entities acting on their behalf from violating the PTRA in the future.

Count Four:
Violation of the TCPA's Implementing Regulations
Codified at 47 C.F.R. § 64.1200

83. By placing at least two telemarketing calls to the Plaintiff, whose number is on the Do-Not-Call registry, failing to have a written Do-Not-Call policy, and failing to maintain the Plaintiff on their Do-Not-Call list, Defendants, jointly and severally, violated 47 U.S.C. § 227(c)(5) by violating the implementing regulations codified in 47 C.F.R. § 64.1200(c) and (d).

84. This amounts to six violations since Defendants committed three violations per call. The first violation is calling a number on the national Do-Not-Call registry. 47 C.F.R. § 64.1200(c)(2). The second violation is by calling Plaintiff without having a Do-Not-Call policy in place. 47 C.F.R. § 64.1200(d)(1). The third violation is by calling Plaintiff without maintaining the Plaintiff on their internal Do-Not-Call list. 47 C.F.R. § 64.1200(d)(6).

85. The foregoing acts and omissions of Defendants and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf constitute at least six violations of the TCPA, 47 U.S.C. § 227(c), codified at 47 C.F.R. § 64.1200, by, *inter alia*, refusing to scrub

against the National Do-Not-Call registry, refusing to maintain Mr. Perrong's number on an internal Do-Not-Call list, and failing to have a Do-Not-Call policy.

86. As a result of Defendants' and/or their affiliates, agents, and/or other persons or entities acting on their behalf's violations of the TCPA, 47 U.S.C. § 227(c), Plaintiff is entitled to an award of \$500 in damages for each and every call and violation made to his telephone number in violation of the TCPA's implementing regulations codified at 47 C.F.R. § 64.1200, pursuant to 47 U.S.C. § 227(c)(5)(B).

87. Plaintiff is also entitled to and does seek injunctive relief prohibiting Defendants and/or their affiliates, agents, and/or other persons or entities acting on their behalf from violating the TCPA, 47 U.S.C. § 227(c), by making calls in violation of any of the TCPA's implementing regulations in the future.

88. The Defendants' violations were knowing and/or willful. Accordingly, the Plaintiff seeks up to treble damages of the \$500 per violation award, as provided in 47 U.S.C. § 227(b)(3)(B).

Relief Sought

WHEREFORE, Plaintiff requests the following relief:

- A. Injunctive relief prohibiting Defendants from calling telephone numbers using an artificial or prerecorded voice and/or ATDS.
- B. Because of Defendants' violations of the TCPA, Plaintiff seeks for himself \$500 in damages for each violation or—where such regulations were willfully or knowingly violated—up to \$1,500 per violation, pursuant to 47 U.S.C. § 227(b)(3) or 47 U.S.C. § 227(c)(5).

- C. Because of Defendants' violations of the PTRA, Plaintiff Perrong seeks for himself \$300 in damages for each violation, pursuant to 73 Pa. Cons. Stat. § 201-9.2(a).
- D. Such other relief as the Court deems just and proper.

Plaintiff requests a jury trial as to all claims of the complaint so triable.

Dated: **August 15, 2022**



Andrew R. Perrong
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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ANDREW R. PERRONG

1657 THE FAIRWAY #131, JENKINTOWN, PA 19046

(b) County of Residence of First Listed Plaintiff MONTGOMERY
(EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)
ANDREW R. PERRONG (PRO SE); 1657 THE FAIRWAY
#131, JENKINTOWN, PA 19046; 215-791-6957
DEFENDANTS
DELANEY CONSTRUCTION PAVING
857 CALLOWHILL RD., PERKASIE, PA 18944

County of Residence of First Listed Defendant BUCKS

*(IN U.S. PLAINTIFF CASES ONLY)*NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.Attorneys *(If Known)*
II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		INTELLECTUAL PROPERTY RIGHTS
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 350 Motor Vehicle		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage		SOCIAL SECURITY
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
			<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 864 SSID Title XVI
			<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))
			<input type="checkbox"/> 791 Employee Retirement Income Security Act	
			IMMIGRATION	FEDERAL TAX SUITS
			<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
			<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN *(Place an "X" in One Box Only)*

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):
TELEPHONE CONSUMER PROTECTION ACT, 47 USC 227; 47 CFR 64.1200

VI. CAUSE OF ACTION

Brief description of cause:
DEFENDANTS CALLED PLAINTIFF IN VIOLATION OF THE TCPA

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

15,600

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/14/2022

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: _____

1657 THE FAIRWAY #131, JENKINTOWN, PA 19046

Address of Defendant: _____

857 CALLOWHILL RD., PERKASIE, PA 18944

Place of Accident, Incident or Transaction: _____

BY TELEPHONE CALL TO MY PRIVATE TELEPHONE

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 08/15/2022


Must sign here

PRO SE

Attorney at Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
 2. FELA
 3. Jones Act-Personal Injury
 4. Antitrust
 5. Patent
 6. Labor-Management Relations
 7. Civil Rights
 8. Habeas Corpus
 9. Securities Act(s) Cases
 10. Social Security Review Cases
 11. All other Federal Question Cases
(Please specify): _____

TCPA

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
 2. Airplane Personal Injury
 3. Assault, Defamation
 4. Marine Personal Injury
 5. Motor Vehicle Personal Injury
 6. Other Personal Injury (Please specify): _____
 7. Products Liability
 8. Products Liability – Asbestos
 9. All other Diversity Cases
(Please specify): _____

I, ANDREW R. PERRONG, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

Relief other than monetary damages is sought.

DATE: 08/15/2022


Sign here if applicable

PRO SE

Attorney at Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.